

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
CLERK'S OFFICE
JUL 22 2005 P 3 21

SANDRA FACTOR,

Plaintiff,

v.

WALT DISNEY WORLD COMPANY,

Defendant.

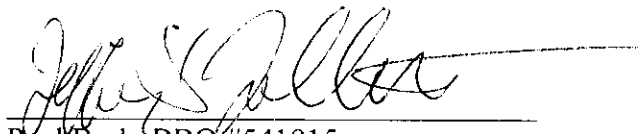
CIVIL ACTION NO. 05 CV 10404 REK

NOTICE OF FILING CERTIFIED COPIES OF STATE COURT RECORDS

Pursuant to Local Rule 81.1 of the United States District Court for the District of Massachusetts, defendant Walt Disney World Company hereby files certified copies of all records and proceedings in the state court action (Middlesex Superior Court Civil Action No. 04-04509), including the list of docket entries.

WALT DISNEY WORLD CO.,

By its attorneys,



Paul Bork, BBO #541815

Jeffrey S. Follett, BBO #564337

Foley Hoag LLP

155 Seaport Blvd

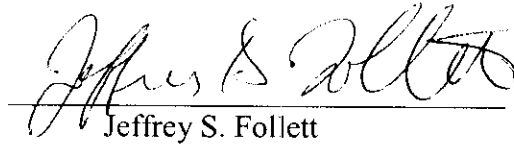
Boston, Massachusetts 02210

(617) 832-1000

Dated: March 8, 2005

CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2005, I caused a true copy of the foregoing Notice of Filing Certified Copies of State Court Records to be served upon Plaintiff by causing a copy of the same to be delivered by facsimile and U.S. Mail to her counsel of record, Richard P. Heartquist, 200 Sutton Street, #244, North Andover, MA 01845.


Jeffrey S. Follett

MICV2004-04509

SANDRA FACTOR

v.

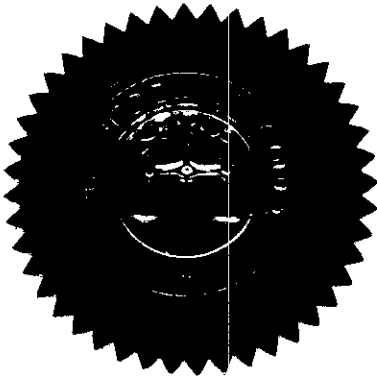
WALT DISNEY WORLD CO

******REMOVED TO US DISTRICT COURT******

**Commonwealth of Massachusetts
SUPERIOR COURT DEPARTMENT
THE TRIAL COURT
CAMBRIDGE**

MICV2004-04509

I, Anne M. Cherubino, Deputy Assistant Clerk of the Superior Court, within and for said County of Middlesex, do certify that the annexed papers are true copies made by photographic process of pleadings entered in the Superior Court on the 12th of November, in the year of our Lord, Two Thousand Four



In testimony whereof, I hereunto set my hand and affix the seal of said Superior Court, at Cambridge, in said County, this 4th of March, in the year of our Lord, Two Thousand Five


Deputy Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT

SANDRA FACTOR,

Plaintiff,

v.

WALT DISNEY WORLD COMPANY,

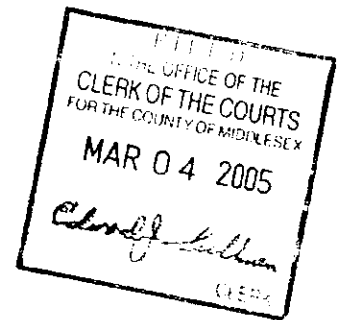
Defendant.

CIVIL ACTION NO. 04 CV- 4509D

NOTICE OF FILING NOTICE OF REMOVAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

Please take notice that on March 3, 2005, defendant Walt Disney World Company filed the attached Notice of Removal in the United States District Court for the District of Massachusetts.



THE WALT DISNEY WORLD COMPANY

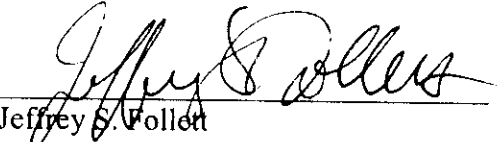
By its attorneys,

Paul Bork, BBO #541815
Jeffrey S. Follett, BBO#564337
Foley Hoag LLP
155 Seaport Blvd
Boston, Massachusetts 02210
(617) 832-1000

Dated: March 4, 2005

CERTIFICATE OF SERVICE

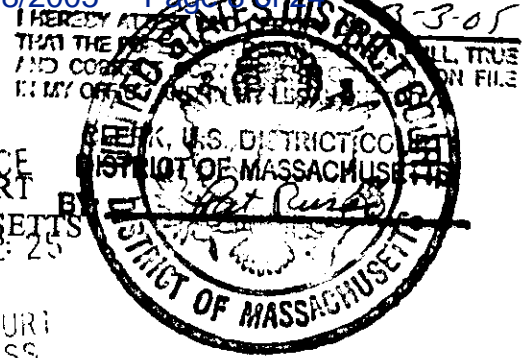
I hereby certify that on March ___, 2005, I caused a true copy of the foregoing Notice of Filing Notice of Removal to be served upon Plaintiff by causing a copy of the same to be delivered by facsimile and U.S. Mail to its counsel of record, Richard P. Heartquist, 200 Sutton Street, #244, North Andover, MA 01845.



Jeffrey S. Pollen

COPY

FILED
CLERK'S OFFICE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
7005 MAR -3 P 2:25



SANDRA FACTOR,

Plaintiff,

v.

WALT DISNEY WORLD COMPANY,

Defendant.

CIVIL ACTION NO. 05 CV

05 - 10404 REK

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§1441 et seq., defendant Walt Disney World Co. ("WDW") files this Notice of Removal and states as follows:

1. Defendant is a party in an action commenced against it by the plaintiff pending in the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts for Middlesex County, Lowell Division, captioned Sandra Factor v. Walt Disney World Company, Civil Action No. 04-4509D (the "state action"). True copies of all process, pleadings and orders served on the defendant in the state action are attached hereto and incorporated herein as Exhibit A.
2. In her state action Complaint, plaintiff alleges that she is an individual residing at 346 Ferry Street, Malden, Massachusetts.
3. WDW is a corporation organized under the laws of the State of Florida with a principal place of business in Lake Buena Vista, Orange County, Florida.
4. There is, therefore, complete diversity of citizenship and plaintiff's Complaint demands judgment in the amount of \$150,000, exclusive of interest and costs.

5. WDW was served with a copy of the Summons and Complaint on February 2, 2005. Consequently, this notice is timely under 28 U.S.C. § 1446(b).
6. This action is one of which this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 and which may be, and hereby is, removed to this Court by the defendant.
7. This Notice of Removal is made expressly reserving all of WDW's defenses, including defenses relating to this Court's lack of personal jurisdiction over WDW.

WALT DISNEY WORLD CO.,

By its attorneys,



Paul Bork, BBO #541815
Jeffrey S. Follett, BBO #564337
Foley Hoag LLP
155 Seaport Blvd
Boston, Massachusetts 02210
(617) 832-1000

Dated: March 3, 2005

CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2005, I caused a true copy of the foregoing Notice of Removal to be served upon Plaintiff by causing a copy of the same to be delivered by facsimile and U.S. Mail to her counsel of record, Richard P. Heartquist, 200 Sutton Street, #244, North Andover, MA 01845.



Paul Bork

TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED: —
 TORT — MOTOR VEHICLE TORT — CONTRACT —
 EQUITABLE RELIEF — OTHER

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX

(seal)

ss

SUPERIOR COURT
 DEPARTMENT
 OF THE
 TRIAL COURT
 CIVIL ACTION

No.

04-1509D

Sandra Factor, Plaintiff(s)

v.

Walt Disney World Co Defendant(s)

A TRUE COPY

KEVIN BERRY, CLERK

CLERK OF COURT, FLORIDA

SUMMONS

Served on the 2 day
 of Feb 2005
 by J. 007
 At DORSET, S.

To the above-named Defendant:

You are hereby summoned and required to serve upon Richard P. Heartquist

plaintiff's attorney, whose address is 200 Sutton Street #244

North Andover, MA 01845

an answer to the complaint which is herewith
 served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you
 fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also
 required to file your answer to the complaint in the office of the Clerk of this court at 40 Thorndike Street
 Cambridge, MA 02141

either before service upon plaintiff's attorney or within a
 reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may
 have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's
 claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DeVecchio, Esquire, at Middlesex Superior Court

the 24th day of January

in the year of our Lord 2005

Edward J. Sullivan
 Clerk

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

NOTICE TO DEFENDANT: You need not appear personally or by counsel to file an answer to this summons. If you claim to have a defense, enter your answer in the space provided on the back of this summons. If you do not have a defense, you may enter a default judgment against you. If you enter a default judgment, you will be responsible for the costs of this action. If you enter a default judgment, you will be responsible for the costs of this action. If you enter a default judgment, you will be responsible for the costs of this action.

CIVIL ACTION
COVER SHEETSuperior Court Department
County: Middlesex

PLAINTIFF(S)

Sandra Factor

DEFENDANT(S)

Walt Disney World, Co.

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

Richard P. Heartquist

200 Sutton Street, #244

North Andover, MA 01845

Board of Bar Overseers Number: BBO# 564451

(978)
687-6664

ATTORNEY (if known)

unknown

c/o Jeffrey H. Smith

registered agent

Origin code and track designation

Place an X in one box only:

☒ 1. F01 Original Complaint☐ 2. F02 Removal to Sup.Ct. C.231,s.104
(Before trial) (F)☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)☐ 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)☐ 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)☐ 6. E10 Summary Process Appeal (X)

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.

TYPE OF ACTION (specify)

TRACK

IS THIS A JURY CASE?

B20

Personal Injury

(F)

(X) Yes

() No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses \$ 7,620.00
2. Total Doctor expenses \$
3. Total chiropractic expenses \$
4. Total physical therapy expenses \$
5. Total other expenses (describe) \$

Subtotal \$ 5,000.00

B. Documented lost wages and compensation to date

\$ 20,000.00

C. Documented property damages to date

\$

D. Reasonably anticipated future medical and hospital expenses

\$

E. Reasonably anticipated lost wages

\$

F. Other documented items of damages (describe)

\$

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

Plaintiff injured her neck, back, shoulders and head when a bench collapsed under her at defendant's amusement park. After the bottom of metal bench collapsed, the high metal back struck Plaintiff.

TOTAL \$ 32,620.00

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE: 11/10/04

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT
LOWELL DIVISION
DOCKET NO.

SANDRA FACTOR,
Plaintiff

V.

WALT DISNEY WORLD CO.,
Defendant

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)
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)
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COMPLAINT AND JURY DEMAND

Introduction

Plaintiff brings this civil action against the Defendant seeking damages for injuries she suffered while visiting defendant amusement park in Florida. Plaintiff asserts the following claims: Negligence, Breach of Contract, and Negligent Infliction of Emotional Distress.

Parties

1. Sandra Factor, the "Plaintiff", is an individual residing at 346 Ferry Street, Malden, Middlesex County, Massachusetts.

2. Walt Disney World Co., the "Defendant", is upon information and belief, a Florida Corporation with a principle address listed with the Florida Department of State as 1375 Buena Vista Drive, 4th Floor North, Lake Buena Vista, Florida 32830 and with a registered agent at the same address named Jeffrey H. Smith.

Facts

3. On or about November 14, 2001 the plaintiff was a customer at the defendant's amusement park popularly known as "Walt Disney World" in Florida.

4. While legally in the park with her family, plaintiff stopped to rest on a metal, high-backed bench, designated for use by guests of the park such as the plaintiff, in a market area.

5. Moments after sitting on the bench, a support gave way causing plaintiff to fall with great force.

6. A moment after plaintiff fell, the metal back of the bench struck her as it fell; when she pushed that portion of the bench off of her, it swung around and struck her again.

7. Plaintiff was pregnant at the time and accompanied by only her toddler.

8. The defendant negligently and carelessly maintained its park allowing for a metal bench to collapse and injure the plaintiff.

9. The plaintiff suffered serious injuries to her neck, back, shoulders and skull.

10. The plaintiff has suffered from depression due to the injuries she suffered in the fall.

Count I
(Negligence)

11. The plaintiff realleges and incorporates the allegations in paragraphs 1-10 above.

12. On November 14, 2001, plaintiff legally entered the defendant's premises while the defendant maintained its premises, in such a careless and negligent manner, in violation of its duty, as to cause great injury to the plaintiff.

13. As a direct and proximate result of the negligence of the defendant in maintaining said premises, plaintiff was caused to suffer severe personal injuries, was caused impairment of mind and body, was caused disability and was caused to incur and continues to incur medical expenses, and was caused to be unable to carry out her usual daily activities all to her great damage.

14. As a direct and proximate result of defendant's negligence, plaintiff has suffered \$150,000.00 in damages.

WHEREFORE, the Plaintiff demands judgment against the defendant in the amount of \$150,000.00, or any such amount or relief as this Honorable Court deems just and proper, together with interest and the costs of this action.

Count II
(Breach of Contract)

15. The Plaintiff realleges and incorporates the allegations in paragraphs 1-14 above.

16. The plaintiff made an agreement whereby she would gain access to, and full enjoyment of, the defendant's amusement park.

17. Defendant implicitly agreed to provide safe and operable facilities.

18. By its breach of that contract plaintiff was caused to suffer severe personal injuries, was caused impairment of mind and body, was caused disability and was caused to incur and continues to incur medical expenses, and was caused to be unable to carry out her usual daily activities all to her great damage.

WHEREFORE, the Plaintiff demands judgment against the defendant in the amount of \$150,000.00, or any such amount or relief as this Honorable Court deems just and proper, together with interest and the costs of this action.

Count III
(Negligent Infliction of Emotional Distress)

19. The Plaintiff realleges and incorporates the allegations in paragraphs 1-18 above.

20. Defendant was negligent in carrying out its duties in maintaining its amusement park.

21. That negligence on the part of Defendant led directly to plaintiff suffering severe emotional distress.

22. Plaintiff suffered physical harm manifested by objective symptomatology.

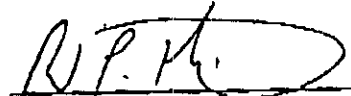
23. Any reasonable person in Plaintiff's position would have suffered emotional distress under the circumstances.

24. WHEREFORE, the Plaintiff demands judgment against the defendant in the amount of \$150,000.00, or any such amount or relief as this Honorable Court deems just and proper, together with interest and the costs of this action.

Jury Demand

Plaintiff respectfully demands a trial by jury as to all issues triable to a jury.

Sandra Factor,
By her attorney,

A handwritten signature in black ink, appearing to read "R.P.H.", is written over a horizontal line.

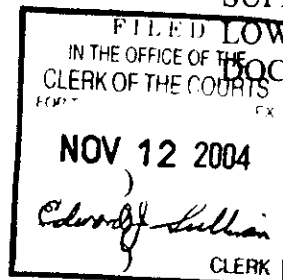
Richard Heartquist
200 Sutton Street, Suite 244
North Andover, MA 01843
(978) 687-6664
BBO #564451

Dated: November 10, 2004

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT



LOWELL DIVISION

DOCKET NO.

01-1509

2045A000011/12/04CIVIL	240.00
2045A000011/12/04SUR CHARGE	15.00
2045A000011/12/04SECC	20.00
2045A000011/12/04SUMMONS	5.00

SANDRA FACTOR, -
Plaintiff

V.

COMPLAINT AND JURY DEMAND

WALT DISNEY WORLD CO.,
Defendant

Introduction

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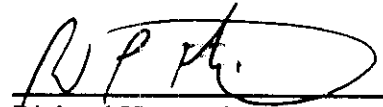
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Sandra Factor,
By her attorney,

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Richard Heartquist
200 Sutton Street, Suite 244
North Andover, MA 01843
(978) 687-6664
BBO #564451

Dated: November 10, 2004

**CIVIL ACTION
COVER SHEET**

Case 05-cv-10404-REK

04-1509

Filed 03/08/2005 Page 23 of 24
Trial Court of Massachusetts
Superior Court Department

County: Middlesex



PLAINTIFF(S)

Sandra Factor

DEFENDANT(S)

Walt Disney World, Co.

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

Richard P. Heartquist
200 Sutton Street, #244

North Andover, MA 01845
Board of Bar Overseers number: BBO# 564451

ATTORNEY (if known)

unknown
c/o Jeffrey H. Smith
registered agent

Origin code and track designation

Place an x in one box only:

- ☒ 1. F01 Original Complaint
☐ 2. F02 Removal to Sup.Ct. C.231,s.104
(Before trial) (F)
☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

- ☐ 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)
☐ 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)
☐ 6. E10 Summary Process Appeal (X)

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.

TYPE OF ACTION (specify)

TRACK

IS THIS A JURY CASE?

B20

Personal Injury

(F)

(X) Yes

() No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses
2. Total Doctor expenses
3. Total chiropractic expenses
4. Total physical therapy expenses
5. Total other expenses (describe)

FILED
IN THE OFFICE OF THE
CLERK OF THE COURTS
NOV. 12. 2004
Subtotal \$ 7,620.00
\$ 5,000.00
\$ 20,000.00
\$

B. Documented lost wages and compensation to date

C. Documented property damages to date

D. Reasonably anticipated future medical and hospital expenses

E. Reasonably anticipated lost wages

F. Other documented items of damages (describe)

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

Plaintiff injured her neck, back, shoulders and head when a bench collapsed under her at defendant's amusement park. After the bottom of metal bench collapsed, the high metal back struck Plaintiff.

TOTAL \$ 32,620.00

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE: 11/10/04

MICV2004-04509
Factor v Walt Disney World Co

File Date	11/12/2004	Status	Disposed: transfered to other court (dtrans)
Status Date	03/04/2005	Session	D - Cv D (7A Cambridge)
Origin	1	Case Type	B20 - Personal Injury-Slip&Fall
Lead Case		Track	F

Service	02/10/2005	Answer	04/11/2005	Rule12/19/20	04/11/2005
Rule 15	04/11/2005	Discovery	09/08/2005	Rule 56	10/08/2005
Final PTC	11/07/2005	Disposition	01/06/2006	Jury Trial	Yes

PARTIES

Plaintiff

Sandra Factor
346 Ferry Street
Malden, MA 02148
Active 11/12/2004

Private Counsel 564451

Richard P Heartquist
200 Sutton Street
Suite 244
North Andover, MA 01845
Phone: 978-687-6664
Fax:
Active 11/12/2004 Notify

Defendant

Walt Disney World Co
1375 Buena Vista Dr
4th Floor North
Orlando, FL 32830
Service pending 11/12/2004

Private Counsel 541815

Paul Bork
Foley Hoag LLP
155 Seaport Boulevard
Boston, MA 02210-2600
Phone: 617-832-1000
Fax: 617-832-7000
Active 03/04/2005 Notify

Private Counsel 564337

Jeffrey S Follett
Foley Hoag LLP
Seaport World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2600
Phone: 617-832-1000
Fax: 617-832-7000
Active 03/04/2005 Notify

ENTRIES

Date	Paper	Text
11/12/2004	1.0	Complaint & civil action cover sheet filed
11/12/2004		Origin 1, Type B20, Track F.
03/04/2005	2.0	Case REMOVED this date to US District Court of Massachusetts by deft Walt Disney World Co
03/04/2005		ABOVE ACTION THIS DAY REMOVED TO US DISTRICT COURT